

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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RICHARD EVALOBO and PRISCILLA
SANTOS CORTEZ,

Plaintiffs,

V.

ALDRIDGE PITE, LLP; REBECCA P.
KERN, ESQUIRE; and U.S. BANK, N.A.

Defendants

Case No. 2:16-cv-00539-APG-VCF

ORDER DENYING PLAINTIFFS' MOTION FOR LEAVE TO AMEND

(ECF No. 20)

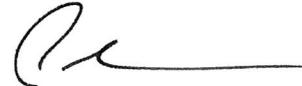
I previously entered an order dismissing with prejudice most of the claims asserted by plaintiffs Richard Evalobo and Priscilla Santos Cortez. ECF No. 19. Dismissal with prejudice means those claims cannot be reasserted in this lawsuit. I granted the leave to amend the complaint to cure the defects in their claims of common law fraud, FDCPA violations, and breach of contract if sufficient facts exist. *Id.* The plaintiffs have now filed a motion seeking leave to file their amended complaint. ECF No. 20. I deny the motion.

The plaintiffs appear to have ignored my earlier Order. The proposed First Amended Complaint (ECF No. 20-1) simply adds another defendant, more bare restatements of the fraud claim, and authority that fraud is bad. But the underlying conduct (which I previously ruled does not state a claim) remains the same. In my order, I pointed out that to amend their complaint the plaintiffs had to, at a minimum, “plausibly and with particularity specify in what way the [Deed Of Trust] offered by the defendants has been altered from the [Deed Of Trust] Cortez admitted to entering into in prior litigation.” ECF No. 19 at 7. The plaintiffs also were directed to clarify if they were making an FDCPA claim about activities outside of the foreclosure process, and if so to support it with sufficient facts. *Id.* at 9. The proposed First Amended Complaint does neither of these things.

1 I will give the plaintiffs one final chance to amend their complaint and address the issues
2 detailed in my prior Order (ECF No. 19). They must omit from that amended complaint the
3 claims I have dismissed with prejudice. Those claims are preserved for appeal. If the plaintiffs
4 again fail to file a proper amended complaint, the complaint will be dismissed without leave to
5 amend and this case will be closed.

6 IT IS THEREFORE ORDERED that the plaintiffs' motion for leave to amend (**ECF No.**
7 **20**) is **DENIED**. The plaintiffs are granted a final opportunity to amend the complaint to cure
8 the defects in their common law fraud, breach of contract, and FDCPA claims if sufficient facts
9 exist. The plaintiffs must file the amended complaint within 14 days of entry of this order.

10 DATED this 13th day of January, 2017.



11 ANDREW P. GORDON
12 UNITED STATES DISTRICT JUDGE
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